

acceptable diluent and having effective ion concentrations of Na 140±10% mmol/l, Mg 0.75±10% mmol/l, Cl 116.5 ± 10% mmol/l, and wherein the HCO<sub>3</sub> is provided in an effective concentration consisting essentially of 25.0 ± 10% mmol/l.

30. (new) A sterile dialysis solution comprising the concentrate as claimed in any of claims 24 to 30 and a physiologically acceptable diluent.

**REMARKS**

Referring to the Examiner's Action of February 22, 2007 and in order to expedite this application for the claims that are allowed, Applicant has decided to cancel all of the claims with the exception of claim 24 and the subject matter related thereto without prejudice to filing a continuation application for the cancelled claims.

Applicant notes the Examiner's concerns with respect to amended claim 18 and that claim has been cancelled. Please note that cancellation of claim 18 does not mean that the Applicant agrees with the Examiner's position expressed in his action of February 22, 2007.

Claims 1, 9 through to 10, 14, 17, 19 and 21 stand rejected under 35 U.S.C. 112 first paragraph again for the reasons set out in the Examiner's action on page 4. Applicant therefore has cancelled these claims without prejudice to filing a continuation or a divisional application at some future point in time. Applicant submits that elimination of the word "in vivo" should rectify any definiteness problems in the previously filed claim set.

Claims 1, 9 through to 10, 14, 17, 19 and 21 now stand rejected under 35 U.S.C 112 second paragraph for reasons similar to the Examiner's first paragraph rejection. Applicant response is

similar in that "effective bicarbonate" concentration would be quite correct and well supported in the disclosure. However, since the Applicant is canceling all of these claims, there is no need to make any further arguments in this regard until such time as the continuation application is filed.

Claims 1, 9, 14, 17, 19 and 21 now stand rejected under 35 U.S.C. 102(b) as being allegedly anticipated by Kaye. Clearly, the Examiner has prepared his own data which is not evidence from Kaye in purported by the Examiner as being allegedly part of Kaye which are not indeed part of Kaye. However since the present claim set with respect to all claims except for claim 24 have been cancelled, no further arguments are necessary. However, Applicant would like to state at this time that the Examiner's allegations on pages 6 and 7 on his report of February 22, 2007 are incorrect and based on the use by the Examiner of Applicants claims as a template. The teachings in Kaye are not novelty destroying.

Applicant notes that the Examiner on page 8 of his report states that claim 24 is allowed. Applicant appreciates Examiner's comments and on this basis, Applicant wishes to proceed with amendments to the claim set focusing on the subject matter in claim 24, which the Examiner has allowed. Applicant further submits that it is not necessary to undergo a further search update since utilizing the Examiner's own words, this would place an unnecessary burden on the Applicant, should the Examiner uncover some remote reference and attempt to force some teaching from that reference to further reject claim 24 and any of the claims based on the subject matter of claim 24.

Applicant therefore provides within this submission amended claims 24 through 30 which are entirely based on the subject matter of claim 24 with a number of slight variations to ensure that

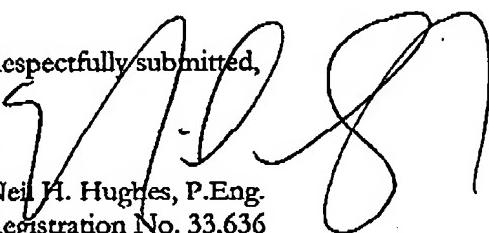
all possibly alternatives of the same breadth as claim 24 are pursued. Full consideration is respectfully requested.

Applicant also notes that the Examiner has repeated his request for information regarding Normocarb® and his dissatisfaction with what Applicant has provided. Applicant has provided in a clear presentation everything within its possession with respect to Normocarb®, specifically Applicant has provided the Examiner with information that clearly shows that there is no prior sale of Normocarb® in the US prior to the filing of this current application. Why the Examiner would state that our submission is of little worth is puzzling? The information presented shows that Normocarb® was marketed and pursued after the filing date of this present application. The Examiner was attempting to extract an admission from Applicant in this regard to utilize it as a 102(a) bar. However, this is not the case and Applicant has cooperated to the fullest extent possible.

Full consideration therefore of the present amended claim set is requested and a notice of allowance is earnestly solicited.

If any questions arise, the Examiner is respectfully requested to contact Neil Hughes at (905) 771-6414 at the Examiner's convenience.

Respectfully submitted,

  
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NHH/dj